

Res. No 111948-1

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

ROBERT W. ALVORD
ALBERT H. GREENE
CARL C. DAVIS*
CHARLES T. KAPPLER
JOHN H. DOYLE
MILTON C. GRACE*
GEORGE JOHN KETO**
RICHARD N. BAGENSTOS

* NOT A MEMBER OF D.C. BAR
** ALSO A MEMBER OF OHIO BAR

LAW OFFICES
ALVORD AND ALVORD

200 WORLD CENTER BUILDING
918 SIXTEENTH STREET, N.W.
WASHINGTON, D.C.
20006

July 31, 1980

RECORDATION NO. 11948-D
Filed & Recorded

JUL 31 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

0-213A03

No.

JUL 31 1980

Date

Fee \$

10.00

ICC Washington, D. C.

OF COUNSEL
JESS LARSON
URBAN A. LESTER
CABLE ADDRESS
"ALVORD"
TELEPHONE
AREA CODE 202
393-2266
TELEX
440348 CDAA UI

Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Madam:

Enclosed for recordation pursuant to the provisions of Section 11303(a) of Title 49 of the United States Code and the regulations thereunder are six counterparts of an Amendment Agreement dated as of July 1, 1980 ("Document").

The Document amends a Conditional Sale Agreement dated as of June 15, 1980 between Funding Systems Railcars, Inc., Vendee, and Thrall Car Manufacturing Company, Vendor; and an Agreement and Assignment dated as of June 15, 1980 between Girard Bank, as Agent, and Thrall Car Manufacturing Company, which were duly filed and recorded at 10:30 a.m. on June 30, 1980 and assigned Recordation Numbers 11948 and 11948-A, respectively.

A general description of the railroad equipment covered by the Document is, as follows:

One hundred (100) 100-ton, 52'6" gondola
railroad cars bearing identifying numbers
UMP 2000 through UMP 2099, both inclusive.

The undersigned is Agent for the Vendee mentioned in the Document for the purpose of submitting the Document for recordation and has knowledge of the matters set forth therein.

Also enclosed is a remittance in the amount of \$10 in payment of the required recordation fee.

Very truly yours,

ALVORD AND ALVORD

By

Charles T. Kappler

Charles T. Kappler

REC'D
FEE OPERATION BR.
I.C.C.

JUL 31 10 55 AM '80

REC'D

Charles T. Kappler

Interstate Commerce Commission
Washington, D.C. 20423

7/31/80

OFFICE OF THE SECRETARY

Charles T. Kappler, Esq.
Alvord & Alvord
200 World Center Building
Washington, D.C. 20006

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **7/31/80** at **11:00Am**, and assigned recordation number(s). **11948-D**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

JUL 31 1980 -11 00 AM

INTERSTATE COMMERCE COMMISSION

AMENDMENT AGREEMENT dated as of July 1, 1980, among THRALL CAR MANUFACTURING COMPANY ("Builder"), FUNDING SYSTEMS RAILCARS, INC. ("Vendee") and GIRARD BANK ("Agent"), acting as agent for certain institutional investors ("Investors") under a Participation Agreement dated as of June 15, 1980.

WHEREAS the Builder and the Vendee have entered into a Conditional Sale Agreement dated as of June 15, 1980 ("CSA");

WHEREAS the Builder and the Agent have entered into an Agreement and Assignment dated as of June 15, 1980 ("CSA Assignment");

WHEREAS the CSA and the CSA Assignment were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on June 30, 1980, and were assigned recordation numbers 11948 and 11948-A, respectively; and

WHEREAS the Investors have authorized and instructed the Agent to execute this Amendment Agreement as evidenced by their instruction attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto hereby agree as follows:

1. The first sentence of the second paragraph of Article 5 of the CSA is hereby deleted and amended in its entirety to read as follows:

"Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with accrued interest and all other payments as herein provided, the retained security interest in the Equipment shall terminate and be discharged without further transfer or action on the part of the Vendor."

2. Item 4 of Annex A to the CSA is hereby deleted and amended in its entirety to read as set forth in Exhibit A hereto.

3. The CSA Assignment is hereby amended to permit the aforesaid amendments to the CSA as though originally set forth therein.

4. The Vendee will promptly cause this Amendment Agreement to be filed in accordance with the provisions of Article 18 of the CSA.

5. Except as amended hereby, the CSA and the CSA Assignment shall remain unaltered and in full force and effect.

6. The terms of this Amendment Agreement and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

7. This Amendment Agreement may be executed in any number of counterparts, and such counterparts together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties if each party shall sign at least one counterpart.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized, and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

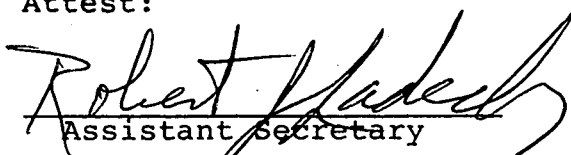
THRALL CAR MANUFACTURING COMPANY,

by


VICE President

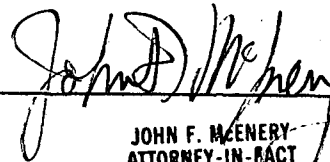
[Corporate Seal]

Attest:


Assistant Secretary

FUNDING SYSTEMS RAILCARS, INC.,

by


JOHN F. MCENERY
ATTORNEY-IN-FACT

[Corporate Seal]

Attest:


Assistant Secretary

GIRARD BANK, as Agent,

by


Vice President

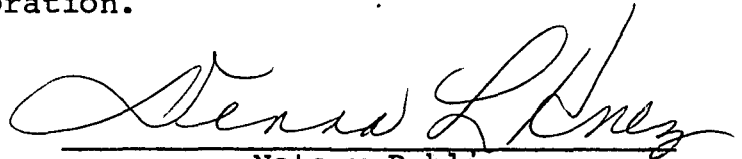
[Corporate Seal]

Attest:


Assistant Secretary

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK)

On this 24th day of July 1980, before me personally appeared S. D. CHRISTIANSON, to me personally known, who, being by me duly sworn, says that he is President of THRALL CAR MANUFACTURING COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.


Notary Public

[Notarial Seal]

My Commission expires 1-11-81

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF ALLEGHENY ,)

On this 29th day of JULY 1980, before me personally appeared JOHN F. McENERY, to me personally known, who, being by me duly sworn, says that he is ATTORNEY-IN-FACT of FUNDING SYSTEMS RAILCARS, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.


Notary Public

[Notarial Seal]

My Commission expires 10-6-80

PATRICIA L. HINES, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES OCT. 6, 1980
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF PHILADELPHIA ,)

On this 22nd day of July 1980, before me personally appeared H. E. IKELER, JR. , to me personally known, who being by me duly sworn, says that he is Vice President of GIRARD BANK, that one of the seals affixed to the foregoing instrument is the seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.



Notary Public

[Notarial Seal]

My Commission expires

DIANE A. BAXTER, NOTARY PUBLIC
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES AUG. 31, 1981
Member, Pennsylvania Association of Notaries

INSTRUCTION OF INVESTORS TO AGENT

Girard Bank
Three Girard Plaza
Philadelphia, Pennsylvania 19101

Attention of Mr. Harold Ikeler

Dear Sirs:

Reference is made to a Participation Agreement dated as of June 15, 1980, among the undersigned, certain other parties and you, as Agent ("Participation Agreement"). We instruct you to enter into an Amendment Agreement dated as of July 1, 1980, amending the CSA and the CSA Assignment (as each is defined in the Participation Agreement) in the form to which this instruction is attached.

Dated:

Very truly yours,

AVCO CORPORATION RETIREMENT
INCOME TRUST,

THE PREM COMPANY,
ITS DULY AUTHORIZED AGENT

by

Michael J. O'Kane
Vice President-Investment

by

THE PAUL REVERE PROTECTIVE LIFE
INSURANCE COMPANY,

by

Michael J. O'Kane
Vice President-Investment

THE PAUL REVERE VARIABLE ANNUITY
ACCOUNT NO. 1,

by

Michael J. O'Kane
Vice President-Investment

- (a) The Builder warrants that the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached ("Agreement") and warrants the Equipment will be free from defects in material or design and workmanship under normal use and service for a period of one (1) year from the date of delivery of that unit of Equipment or 50,000 miles whichever first occurs, the Builder's obligation under this Paragraph being limited to repairing or replacing any part or parts of any Unit of Equipment which shall be returned, within one year after the delivery of such Unit to the Vendee, to the Builder with transportation charges prepaid, to a repair facility designated by Builder (provided, however, that such designation by Builder shall be in good faith and reasonable under the circumstances), and which the Builder's examination shall disclose to its satisfaction to have been thus defective. THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES OF THE BUILDER EXCEPT UNDER ARTICLES 2, 3, 4 AND THE THIRD AND FOURTH PARAGRAPHS OF ARTICLE 13 OF THE AGREEMENT. It is further understood and agreed that in no event shall the Builder be liable for indirect or consequential damages of any kind. The Builder further agrees that neither the inspection as provided in Article 3 of the Agreement nor any examination or acceptance of any unit of Equipment or the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 4(a).
- (b) Except in cases of articles or materials specified by the Vendee and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee, the Guarantor, the Assignee and any Transferee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee, its successors and assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. In case any of the Equipment is determined to infringe on any patent or other similar right in respect of which liability may be charged against the Builder and the use of any of the Equipment is enjoined, the Builder shall, at its own expense, at its option, either procure for the Vendee, its successors and assigns, the right to continue using such Equipment or replace the same with non-infringing equipment of similar value and utility or modify the same so it becomes non-infringing. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Vendee, its successors and assigns, every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formula, combinations, articles or materials and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or

Exhibit A
(continued)

operation thereof infringes or is claimed to infringe on any patent or other right; and the Builder further agrees to execute and deliver to the Vendee, its successors and assigns, all and every such further assurance as may be reasonably requested by the Vendee, its successors and assigns, more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give prompt notice to the Vendee, its successors and assigns, of any claim known to the Builder from which liability may be charged against the Vendee, its successors and assigns, and the Vendee will give prompt notice to the Builder of any claim known to it from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under the Agreement, the satisfaction and discharge of the Agreement or the termination of the Agreement in any manner.